



January 21, 2015

Angela Garner
Deputy Director
Division of State Demonstrations and Waivers
Center for Medicaid and CHIP Services, CMS
7500 Security Boulevard, Mail Stop S2-01-16
Baltimore, MD 21244-1850

Re: Proposed California Amendment to Bridge to Health Reform
Demonstration (No. 11-W-00193/9), Drug Medi-Cal Organized
Delivery System Waiver

Dear Ms. Garner:

I write on behalf of the 257 patients who receive substance use disorder treatment services at our opiate treatment program located at 795 Fletcher Lane Hayward, CA 94544. We are strongly opposed to sections of the California Bridge to Reform Demonstration (No. 11-W-00193/9) Amendment for Drug Medi-Cal Organized Delivery System Waiver, submitted by the California Department of Health Care Services. Our concern, based on 20 years of operation, is that waiving federal access protections and granting Alameda county authority to establish reimbursement rates will result in decreased access to critical, life-saving treatment services.

Specifically, the current proposal will waive beneficiary freedom of choice, equality in amount, duration and scope, state wideness and reasonable promptness, some of which form the basis of a lawsuit 20 years ago called Sobky Vs. Smoley. Before that lawsuit, Alameda County limited access to our services by limiting DMC slots and limiting funding. After the lawsuit, the county of Alameda complied with the permanent injunction or the state entered into direct contracts with providers. As a result, significantly more people have

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entered treatment and beneficiaries can access medically-necessary treatment on demand, without the waiting lists that were standard practice before the lawsuit. This waiver is likely to overturn that lawsuit and cause the California and Alameda county (county of operation) to regress back more than 20 years. We ask that CMS NOT do anything that may undermine the permanent injunction that was based on overwhelming evidence of county efforts to limit access. Instead, we suggest CMS require California to carve-out opiate treatment providers from this waiver. Such carve-out will not preclude Alameda County from contracting with our program and offering OTP services to residents of Alameda County.

MedMark Hayward currently serves 257 individuals, 95% of which are Medi-Cal funded. Without our services 257 people would not get the treatment they need. This would also affect the 13 Staff members employed in our Hayward Clinic who are providing services. Our experience in 2014 has been that Alameda County's process for increasing access request is slow and conservative. Last February, the program requested a small slot increase. While the County processed the request, we had to wait until the next Board of Supervisors meeting (which was over two months away) to receive the approval. Once the additional slots were approved, the majority of the people on our waitlist could not be reached, as the contact numbers provided to the program were outdated.

After twenty years of success, California's proposed Organized Delivery System would now give back primary responsibility to choose providers, to set rates, and to control access to narcotic treatment programs to all California counties, including those that illegally denied care for many years.

California's Proposition 36 is a perfect example of how county control over treatment will result in limited access. Under Prop 36, Alameda County failed to refer any people to NTP services. None. Zero.

Section 7. Financing of the Special terms and Conditions says counties will propose county-specific rates and the State will approve the rates. This will

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affect access and result in denial, delay, and limitation of services when rates are insufficient to attract sufficient providers to meet beneficiary needs and

demands. This provision will also result in unequal treatment of beneficiaries based on the rates paid in different counties. Furthermore, the counties have proposed reverting from the current fee-for-service system to an antiquated cost-reimbursement system. The current system provides incentives for efficiency and aligns payment for services with evidence-based services, ensuring the best possible patient outcomes. Cost reimbursement, on the other hand, rewards inefficiency and greater costs with no connection to outcomes. That is why Congress and most every other payer has moved away from cost reimbursement systems.

In summary, MedMark Hayward requests that narcotic treatment programs be exempted from the Organized Delivery System waiver for the above stated reasons.

If you would like more information, please do not hesitate to contact me. Thank you for your consideration.

Sincerely,

Ginned Williams
Program Director

MedMark Treatment Services

A handwritten signature in black ink, appearing to read 'Ginned Williams', with a long, sweeping horizontal line extending to the right.